

# Filling Data Gaps to Support Access to Civil Rights in the Mekong Region

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[Open Development Mekong](#)

# Table of Contents

<b>Introduction</b>	<b>2</b>
<b>Why are marginalized people limited in exercising their civil rights?</b>	<b>2</b>
<b>How do data gaps impact access to civil rights for marginalized communities?</b>	<b>4</b>
<b>How do we address these data gaps?</b>	<b>7</b>
<b>Conclusion</b>	<b>8</b>

# Introduction

Data gaps impact the ability of marginalized peoples in the Mekong region to access their civil rights. Supporting them to access their digital rights allows them to address and bridge these data gaps, enabling them to realize their civil rights. Efforts to support marginalized peoples to access their digital rights greatly helps amplify their voices in their advocacy for increased realization of their civil rights.

Data has been of primary importance for responding to the COVID-19 pandemic with the appropriate measures. COVID-19 was declared a pandemic by the WHO on March 11, 2020. Thailand announced a state of emergency on March 26th, the first country in the Mekong Region to do so. Cambodia (April 29, 2020) and Myanmar (June 10, 2020) followed; neither Vietnam nor Lao PDR made such announcements, although Vietnam declared a national pandemic on March 30, 2020.

Marginalized peoples have been disproportionately impacted by the pandemic. In part, it is a result of national and international measures to control the virus, which limit access to basic civil rights. Further, the statistical invisibility of these populations due to the data gaps in the region have limited their access to COVID-19 related relief. Together, these factors have limited the ability of vulnerable populations to access their civil rights during the pandemic. Thus, the pandemic presents a pertinent case study with which to understand the connection between data gaps, civil rights, and digital rights.

## Why are marginalized people limited in exercising their civil rights?

Civil rights are the rights of an individual acquired from being a citizen of a particular nation. They are globally accepted and protected by the International Covenant on Civil and Political Rights (ICCPR). All countries in the Mekong region but Myanmar are parties to the ICCPR.

The rights protected by the ICCPR include gender equality (Article 4), freedom of movement (Article 12), personhood (Article 16), privacy (Article 17), expression (Article 19), association (Article 22), as well as political freedoms (Article 25).<sup>1</sup> They are intended to support people in participating equally in civil and political life. This includes voting, influencing policy- and decision-making, accessing basic public services like health and education, as well as every day activities like attending religious ceremonies.

Civil rights are intended to be protected during all normal circumstances. Yet, in the Mekong region, recognition in law and policy of some of the many rights prescribed in the ICCPR have

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<sup>1</sup> 1976. [International Covenant on Civil and Political Rights](#). Accessed December 1, 2020.

not translated into equal protections for all. For instance, despite recognition in law of gender equality across the region, the gender gap in education persists.<sup>2</sup> More problematically, certain ethnic groups in Myanmar are restricted by law from voting and have not been given citizenship even though they do not have citizenship elsewhere, effectively rendering these individuals stateless.<sup>3</sup> The rural-urban poverty gap remains<sup>4</sup>, with the poor, Indigenous Peoples and ethnic minorities overrepresented in rural areas. Migrants, whether internal or cross-border, typically have limited access to social services including public health care, schools and unemployment aid due to registration requirements.<sup>5</sup>

These inequalities have been exacerbated during the pandemic. The WHO's public health recommendations, which include social distancing, staying at home, self-isolation and quarantine, are intended to reduce and prevent transmission of the virus. However, they also add additional limitations to accessing some civil rights, primarily the freedoms of movement and association. Implementation of these recommendations by Mekong region governments has resulted in restrictions on sizes of gatherings, curfews, requirements to remain at home, and restrictions on travel, among others. Unfortunately, for marginalized populations, their experience of these restrictions is influenced by pre-existing difficulties in accessing their civil rights, making for a more extreme experience. For example, the closures of schools across the region<sup>6</sup> has resulted in a lack of access for marginalized populations living in rural and remote areas, due to previously poor access to schoolbooks<sup>7</sup>, technology<sup>8</sup>, and education in relevant languages<sup>9</sup>, amongst other things. There have been other shifts in basic public services. For example, in Lao PDR, healthcare services may have been diverted from women's health during the pandemic,<sup>10</sup> even while there has been an increase in [gender-based violence](#) due to stay at home measures. In Myanmar, voting protocols were modified for the November 2020 election, impacting the 33% of polled citizens who had trouble voting prior to the virus due to lack of ID, not being on the voter's list, or living too far from a voting station.<sup>11</sup> Contact tracing has also suspended rights to personal privacy for some. For example, in Vietnam, the broad publication of personal data resulted in some individuals experiencing negative psychological

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<sup>2</sup> Open Development Mekong. [SDG 4 Quality Education](#). Accessed November 10, 2020.

<sup>3</sup> See in particular s.3 of the Burma Citizenship Law, which states that only certain ethnic groups are considered to be citizens in Myanmar, and s.4 of the same law, which gives the discretion of definition of any ethnic group as a "national" to the Council of State. The Republic of the Union of Myanmar. 1982. [Burma Citizenship Law](#), at Articles 3 and 4. Accessed November 24, 2020.

<sup>4</sup> Open Development Mekong. 2018. [Social Development](#). Accessed December 3, 2020.

<sup>5</sup> See, for example, in Vietnam. FAO, ILO, IOM, UNAIDS, UNDP, UNESCO, UNICEF, UNFPA, UNODC, UN Women and WHO. 2020. [UN Analysis on Social Impacts of COVID-19 and Strategic Policy Recommendations for Viet Nam](#). Accessed November 11, 2020. Similar concerns have surfaced in Thailand.

<sup>6</sup> Open Development Mekong. [Dataset: School closures in the Mekong region](#). Accessed December 3, 2020.

<sup>7</sup> UNICEF. 2020. [Lao PDR Education COVID-19 Response Plan](#). Accessed September 15, 2020.

<sup>8</sup> Ministry of Education, Youth and Sport. 2020. [Cambodia Education Response Plan to the COVID-19 Pandemic](#). Accessed November 11, 2020.

<sup>9</sup> Ministry of Education, Youth and Sport. 2020. [Cambodia Education Response Plan to the COVID-19 Pandemic](#). Accessed November 11, 2020.

<sup>10</sup> Open Development Laos. 2020. [COVID-19 and Gender Equality](#). Accessed November 24, 2020.

<sup>11</sup> Open Development Myanmar. 2020. [COVID-19 and the 2020 Myanmar Election](#). Accessed December 3, 2020.

consequences.<sup>12</sup> In general, Indigenous Peoples, migrants, and other extremely marginalized populations have experienced greater suppression.<sup>13</sup>

The ICCPR does provide for the possibility of limiting civil rights in “a public emergency which threatens the life of the nation” which the COVID-19 pandemic could be considered. However, the concept of “proportionality” also applies, which means that extreme actions should only be taken if the situation is also considered extreme.<sup>14</sup> In the context of the pandemic, COVID-19 related restrictions on civil rights may be considered proportional to the circumstances of the general population. In [some cases](#), these restrictions have resulted in the successful limitation of the spread of COVID-19.

An additional layer is that the interpretation of implementers of civil rights restrictions during the pandemic also impacts the severity of these restrictions. In Vietnam’s case, national-level COVID-19 regulations were implemented by lower levels of government. In some locales, overbroad interpretations of social distancing and movement restrictions resulted in citizens being overly restricted, while in other locations controversy arose regarding whether the interpretation of misinformation laws in fact restricted freedom of speech.<sup>15</sup>

## How do data gaps impact access to civil rights for marginalized communities?

Data gaps limit the ability of governments of the Mekong region to make decisions based on evidence. These decisions, inaccurate due to being made on incomplete information, shift the creation of policy and the delivery of programs, impacting the ability of all citizens to access their basic rights. During the pandemic, these decisions have included those regarding social

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<sup>12</sup> Read about this in more detail here:

<https://medium.com/opendevelopmentmekong/challenges-in-implementing-measures-to-prevent-covid-19-in-vietnam-bf5d94b69b01>

<sup>13</sup> See, for example:

<https://aippnet.org/joint-statement-of-network-of-indigenous-womens-in-asia-niwa-and-asia-indigenous-peoples-pact-aipp/>. Accessed August 11, 2020.

<sup>14</sup> Office of the High Commissioner for Human Rights. 1999. [CCPR General Comment No. 27: Article 12 \(Freedom of Movement\)](#). Accessed November 24, 2020.

<sup>15</sup> Read about this in more detail here:

<https://medium.com/opendevelopmentmekong/challenges-in-implementing-measures-to-prevent-covid-19-in-vietnam-bf5d94b69b01>

distancing, lockdowns, school closures<sup>16</sup>, internet access<sup>17</sup>, social aid<sup>18</sup>, and tax cuts<sup>19</sup>, amongst many others.

A number of factors contribute to the data gaps in the Mekong region. One is that in developing countries like Cambodia, Lao PDR, and Myanmar, statistical capacity is low. Country-level collection of population dynamics data, collected primarily through the census, is difficult to gather; COVID-19 will have a negative impact on the ability of countries in the region to do a census in the near future. This has resulted in not having enough disaggregated, up-to-date, or otherwise representative data. For example, UNFPA supported Myanmar in conducting a census in 2014, their first in 30 years. While this certainly filled in significant gaps, this data also highlighted persisting gaps, as some populations living in Kachin and Rakhine States were not counted at all, and only non-disaggregated data was made available in some areas of Kayin State, accounting for an estimated 2.3 million people.<sup>20</sup> These states are primarily populated by ethnic minorities currently engaged in conflict - a highly marginalized population. At the same time, census data is also collected using discriminatory methodologies of enumeration. Myanmar's constitutionally defined meaning for "National races" excludes certain ethnic groups.<sup>21</sup> Similarly, Vietnam officially recognizes only 53 ethnic minority groups; other counts number up to 90.<sup>22</sup> This systematizes marginalization, oppression and statistical invisibility.

Further, data collection is often driven by the needs of external funding organizations. Thus, while data may exist for certain sectors, they are time-limited and may lack baselines, limiting a fuller understanding of particular issues or populations. For instance, during the pandemic, CARE conducted a rapid survey on gender in Lao PDR. While useful, this data is of only a limited period in time and represents only a small subsection of communities in the country.<sup>23</sup> Such data collection is partially driven by donor requirements and development agendas, which may not completely align with the needs of the country. The resulting data may not be accessible to citizens due to language, as donors typically operate in technical jargon and donor languages (e.g. English) rather than local languages. This data is then not usually shared

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<sup>16</sup> Open Development Mekong. [Dataset: School closures in the Mekong region](#). Accessed December 3, 2020.

<sup>17</sup> See for example, in Vietnam. Ministry of Education and Training. 2020. [The Information and Communications Going Along with Education and Training in the Preventing COVID-19](#). Accessed November 10, 2020.

<sup>18</sup> See for example, in Myanmar. Open Development Myanmar. 2020. [COVID-19's impact on employment in Myanmar](#). Accessed November 24, 2020.

<sup>19</sup> See for example, in Myanmar. Open Development Myanmar. 2020. [COVID-19's impact on employment in Myanmar](#). Accessed November 24, 2020.

<sup>20</sup> The Republic of the Union of Myanmar. 2014. [2014 Myanmar Population and Housing Census - Union Report - Census Report Volume 2](#). Accessed December 2, 2020.

<sup>21</sup> See in particular s.3 of the Burma Citizenship Law, which states that only certain ethnic groups are considered to be citizens in Myanmar, and s.4 of the same law, which gives the discretion of definition of any ethnic group as a "national" to the Council of State. The Republic of the Union of Myanmar. 1982. [Burma Citizenship Law](#), at Articles 3 and 4. Accessed November 24, 2020.

<sup>22</sup> Open Development Vietnam. 2020. [Ethnic minorities and indigenous people policy and rights](#). Accessed December 2, 2020.

<sup>23</sup> Pimpisa Sriprasert and Athena Nguyen. 2020. [CARE Rapid Gender Analysis COVID-19 Lao People's Democratic Republic July 2020](#). Accessed on November 23, 2020.

externally, which was the case with the aforementioned data collected by CARE. In countries where many donor agencies operate, these closed data behaviours of the agencies mean that while there may be a proliferation of some data at certain times, the datasets remain of limited usefulness because of a lack of open sharing.

A poor understanding of issues such as gender, domestic violence, migrants, and others contributes to the data gap. Cultural norms, which have impacts that are difficult to quantify, play a role as well. For instance, in Lao PDR, where some 30% of women believe that in some instances husbands are justified in using violence against their wives, many women do not tell others of their experience of gender-based violence; this can impact data collection on gender-based violence in the country.<sup>24</sup> Political biases may limit the data collected on highly-sensitive issues such as internally displaced peoples, such as Myanmar's lack of recognition of Rohingya peoples as citizens.<sup>25</sup> In the context of the pandemic, this means that vulnerable populations remain underserved. For example, even though Myanmar women are overrepresented in economic sectors impacted by the pandemic, because gender and ethnicity are not sufficiently understood and are not disaggregated in data, their needs remain unaddressed in policies such as the government's COVID-19 Economic Relief Plan that are intended to be "comprehensive".<sup>26</sup> For instance, labour benefits for the unemployed were made available to formal workers, but women are significantly more likely to work in informal sectors, denying them access to this relief.<sup>27</sup>

While data does exist, sources are limited and are not usually openly available, regardless of sector. Official data often requires an application for access, even in countries like Vietnam that are comparatively more open with regard to data sharing.<sup>28</sup> Similarly, private-sector data is neither open nor easily available, although potentially insightful for otherwise poorly tracked demographics. For example, in Thailand, informal workers like food delivery drivers are increasingly finding work using digital apps.<sup>29</sup> However, since this industry is informal and unregulated, government data on it is unavailable. Private sector data from digital apps are generally proprietary and used by companies to increase marketing and sales opportunities or sold as a commodity, placing privacy concerns at the fore; thus this data is often not available externally. In this instance, without being counted, these informal workers - disproportionately impacted by COVID-19 restrictions - are essentially invisible to assistance, including government social services.<sup>30</sup> Yet social organizing efforts have sprung up in the Ladprao 101

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<sup>24</sup> Pimpisa Sriprasert and Athena Nguyen. 2020. [CARE Rapid Gender Analysis COVID-19 Lao People's Democratic Republic July 2020](#). Accessed on November 23, 2020.

<sup>25</sup> The Republic of the Union of Myanmar. 2014. [2014 Myanmar Population and Housing Census - Union Report - Census Report Volume 2](#). Accessed December 2, 2020.

<sup>26</sup> Open Development Myanmar. 2020. [COVID-19's impact on employment in Myanmar](#). Accessed November 24, 2020.

<sup>27</sup> Open Development Myanmar. 2020. [COVID-19's impact on employment in Myanmar](#). Accessed November 24, 2020.

<sup>28</sup> Open Data Watch. [Open Data Inventory \(ODIN\)](#). Accessed November 24, 2020.

<sup>29</sup> Open Development Thailand. 2020. [COVID-19 impact on the labour market](#). Accessed November 24, 2020.

<sup>30</sup> Open Development Thailand. 2020. [COVID-19 impact on the labour market](#). Accessed November 24, 2020.



area of Bangkok through a community-based project called “Tamsong-Tamsong”, which is an app supporting informal delivery drivers to transition to a platform economy in a non-exploitative manner.<sup>31</sup> This assists those within this community, but these workers still remain invisible with regard to government services. Additionally, there remain many more workers who could benefit from such data-driven action.

The globally agreed-upon Sustainable Development Goal (SDG) indicators should provide a useful statistical viewpoint into the people of the Mekong. Yet, despite some of its benefits, the framework continues to replicate aspects of the data gap discussed above. Data collection and reporting still depends on national statistical offices, meaning that capacity issues, data quality concerns and institutional biases remain. Nor are SDG indicators completely inclusive. For example, gender disaggregation is not included in all indicators, and ethnicity is not addressed at all. SDG data is not regularly produced in the region. Thus, the invisibility of marginalized populations in data continues to be perpetuated, even in a global framework intended to “leave no one behind” in accessing their basic civil rights.

As a result, decision making about services that are intended to support marginalized peoples in accessing their basic civil rights is based on insufficient data. This is replicated across all levels, from NGOs to the private sector to the government and beyond. As such, despite the provision by Mekong region governments of extra services to those who have been impacted by the virus, marginalized populations are unable to access them. Even if the intention is to support vulnerable groups through the introduction of a particular public service, data gaps render these populations invisible, limiting their ability to access their civil rights.

## How do we address these data gaps?

The systemic issues and institutional bias underlying these data gaps means that filling these gaps requires more than simply government statistical capacity building or institutional support in collecting data. In this context, marginalized populations need targeted support.

**Community-level participatory action projects** - such as Tamsong-Tamsong - that combine data collection on community-determined metrics alongside the development of support based on such data have the potential to be transformative for communities who may otherwise be prohibited from accessing their civil rights. This approach allows for self-determination of their own presence in the data ecosystem and agency over how this data is used for their betterment. Projects can take many forms (for example, community mapping using decentralized technologies or developing culturally relevant surveys), may follow existing frameworks (for example, the [CARE principles](#) for Indigenous data governance), and may be used in a variety of contexts (for example, supporting land claims, being used as evidence to advocate for policy shift, or supporting CSOs serving their communities to learn how to better support their constituents). This decentralized community-level data could form a baseline upon which other communities could build, thereby also broadening the reach of this approach. Such statistical

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<sup>31</sup> Open Development Thailand. 2020. [COVID-19 impact on the labour market](#). Accessed November 24, 2020.



visibility can ultimately translate into visibility and recognition of fundamental aspects of the identities of individuals.

Participatory action research should also include **training on data skills** to allow for governing structures over data that are vested in community interests. Such skills-building could be broad, including governance, collection and analysis, as well as general ICT skills and data and digital security. For some communities, work must be done to bridge cultural differences and differing world views in order to ensure that tools and teaching are relevant. This requires working with communities over the long term to build trust as well as to fully develop baseline skills within communities to ensure longevity of programs. In this way models of “train the trainer” can be provided so that communities are training and supporting their own world views and determining what data and information they want to collect and how to utilise it for their own development benefits. Additionally, data governing structures developed from this approach allows for decision making processes on how to also share data, internally and externally.

Fundamentally critical to supporting these initiatives are funding bodies who support and engage in data and information gathering and dissemination. **Donors should uphold responsible open data principles.** Many donors have open data policies. However, adhering to them and ensuring that they are implemented responsibly can be challenging. Responsibly working with constituents to raise capacities within state and non-state recipients of funding to ensure that all data collected under a project is managed appropriately and contributes meaningfully to existing data ecosystems. This also includes not only openly sharing data, in interoperable formats but also knowing what to share and not to share as well as ensuring that the rights and responsibilities of people within datasets are protected. In doing so they could contribute to filling in some data gaps that could shift priorities and thereby, programs in the country. In locations where donor requirements continue to hold sway, these types of shifts in the frameworks governing data and data sharing may help to promote higher level change, with tangible impacts for marginalized communities.

## Conclusion

The COVID-19 pandemic has highlighted how marginalized communities face limitations in accessing their civil rights as a result of data gaps. The limitations to these communities' access to civil rights is not a new issue and requires innovative approaches in the absence of systemic change. Marginalized communities must be supported in increasing their statistical visibility, agency over their data and digital skill so that they are better able to advocate for access to their basic rights.